

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

BENJAMIN AYERS,

Plaintiff,

v.

**TADESSE ASSAYE MELKAMU a/k/a
TADESE MELKAMU;
TAF TRUCKING, LLC;
RHCOWBOYS TRUCKING, LLC;
DEAN TRUCKING, LLC;
DESTA NEGASH ZELELEW individually
and d/b/a DEAN TRUCKING,**

Defendants.

Case No. 1:22-cv-01241-STA-jay

ORDER DENYING MOTION TO DISMISS ORIGINAL COMPLAINT AS MOOT

Before the Court is Defendant Tadesse Assaye Melkamu's Motion to Dismiss (ECF No. 9) filed November 23, 2022. Plaintiff Benjamin Ayers filed an Amended Complaint (ECF No. 13) on December 14, 2022, and then filed a brief responding in opposition to the Motion to Dismiss on December 21, 2022.¹

It is well-settled that an amended complaint supersedes the original complaint and renders the initial pleading a nullity. *Heyward v. Cleveland Clinic Found.*, 759 F.3d 601, 617 (6th Cir. 2014) (citation omitted). Courts in this Circuit routinely deny motions to dismiss a complaint as moot after a plaintiff subsequently files an amended complaint. *E.g., Pinks v. Lowe's Home Centers, Inc.*, 83 F. App'x 90 (6th Cir. 2003); *Am. Nat'l Prop. & Cas. Co. v. Stutte*, 298 F.R.D. 376, 380 (E.D. Tenn. 2014); *Okolo v. Metro. Gov't of Nashville*, 892 F. Supp. 2d 931, 948 (M.D.

¹ Federal Rule of Civil Procedure 15(a)(1)(B) permits party to amend its pleading as matter of course within 21 days of the service of a Rule 12(b) motion like Defendant's Motion to Dismiss.

Tenn. 2012); *Ellis v. Kaye-Kibbey*, 581 F. Supp. 2d 861 (W.D. Mich. 2008). In light of the fact that Plaintiff has now filed an Amended Complaint, the original Complaint is, strictly speaking, a nullity. Therefore, Defendant's Motion to Dismiss the initial Complaint is **DENIED** as moot and without prejudice to Defendant's right to seek the dismissal of the Amended Complaint.

IT IS SO ORDERED.

s/ S. Thomas Anderson
S. THOMAS ANDERSON
CHIEF UNITED STATES DISTRICT JUDGE

Date: December 28, 2022